



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P. (MD) Nos.21151 and 20653 of 2018
and
Crl.M.P (MD) No.9777 and 9556 of 2018

1. V.Subramanian
 2. S.Saravanakumar ...Petitioners in Crl.O.P(MD) Nos.21151 /Accused
5& 6
- S.R.Balasubramanian ... Petitionersin Crl.O.P(MD) Nos.20653/18/1st
Accused

Vs.

1. The State Rep. by
The Inspector of Police
Natham Police Station
Dindigul District
Crime No. 637 of 2018...1st Respondent/Complainant
2. B.Karthik ...2nd Respondents in both Crl.O.P(MD) 's/Defacto
Complainant

Prayer in Crl.O.P(MD) Nos.21151 /18: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pursuant to the First Information Report in Crime No. 637 of 2018 pending on the file of the first respondent police and quash the same in so far as the petitioners are concerned.

Prayer in Crl.O.P(MD) Nos.20653 /18: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pursuant to the First Information Report in Crime No. 637 of 2018 pending on the file of the first respondent police and quash the same in so far as the petitioner is concerned.

For Petitioner	: Mr.Selvam
in both Crl.O.P's	
For Respondents	: Mr.A.Robinson
No.1	Government Advocate (Crl.side)
No.2	: Mr.C.Mayilvahana Rajendran

**COMMON ORDER**

These Criminal Original Petition have been filed to quash the First Information Report in Crime No. 637 of 2018 pending on the file of the first respondent police

WEB COPY

2. The learned counsel for the petitioners would submit that based on the complaint given by the second respondent a case has been registered against the petitioners and six others for the offence under Sections 294(b), 147, 447, 452, 387 and 506(i) of IPC. The alleged occurrence is said to have taken place on 10.11.2017 and the same was reported on 20.11.2017. He would also submit that the present criminal complaint is not maintainable. He would submit that there is an earlier civil dispute between the parties. The second respondent originally made a complaint before the first respondent police and the first respondent issued summons under Section 160 of Cr.P.C to the first accused and the second respondent and informed them to appear before the first respondent on 23.06.2018 at about 10.00 a.m. On receipt of summons, the first accused appeared before the first respondent on 23.06.2018 and the second respondent has not appeared. Due to non appearance of the second respondent enquiry was postponed to 14.07.2018. Even on that day, the the first petitioner appeared before the first respondent police and gave explanation about his innocence and gave a statement. The Investigating Officer after perusing the genuineness of the complaint as well as the statement of the complaint closed the complaint lodged by the second respondent on 14.07.2017 and the closure report was also served on the second respondent/ defacto complainant, whereas the second respondent / complainant had not filed the protest petition, whereas petitioner using his influence made the first respondent to register the First Information Report based on CSR No.165 of 2018 dated 20.06.2018 by inserting a new complaint in order to include the petitioner's name as accused persons. He would submit that the respondents having conducted enquiry and closed the earlier complaint, the second compliant with very same allegations would amount to a second First Information Report which is not maintainable. The learned counsel for the second respondent would insist that no First Information Report was registered based on the complaint given by the second respondent. He would further submit that there was collusion between the earlier Inspector and the petitioner and thereby he had unilaterally conducted the enquiry and closed it even without examining the second respondent/ complainant which is illegal.

3. Heard both sides. I have gone through the order passed by the earlier Investigating Officer. I am of the opinion that the closure report cannot be deemed as a Final Report which had been unilaterally done by the earlier Inspector even without registering a FIR and without enquiring the second respondent/ complainant

<https://hcservices.ecourts.gov.in/hcservices/>

4. The learned Government Advocate(Crl.Side) would submit that



investigation is going on and there are enough materials against the petitioners.

5. Under such circumstances, this Court is of the opinion that investigation has to be allowed and the first respondent is directed to file final report based on the materials available.

6. This Court does not find any merits in this quash petitions and the same are closed. If the petitioners are aggrieved by the final report, they are at liberty to challenge the final report at appropriate stage. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar(cs-II)

To:

1. The Inspector of Police
Natham Police Station
Dindigul District
2. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

+1cc to Mr.C.Mayilvahana Rajendran Advocate in SR.No.97686
+1cc to Mr.A.S.Vaigunth Advocate in SR.No.97897
+1cc to Mr.A.Muniraj Advocate in SR.No.97892

Crl.O.P.(MD)Nos.21151 and 20653 of 2018
and
Crl.M.P(MD) No.9777 and 9556 of 2018
29.11.2018

AAV
SPSKN SAR2 13.12.2018 3P 6C